

REMARKS

Claims 1-16 are pending in the present application.

The application is believed to be in condition for allowance for the reasons set forth herein. Notice thereof is respectfully requested.

Claim Rejections - 35 USC § 102

Claims 1, 2 and 4 are rejected under 35 U.S.C.102(b) as being anticipated by Skaler '279.

Skaler is cited with particular emphasis on Figs. 1-4; col. 1, lines 55-65 and col. 2, lines 1-49. Applicants submit that Skaler does not teach claim 1 and that the cited figures and passages support novelty.

Fig. 3 of Skaler illustrates an attendant pulling upward on the strap while, with the other hand, pushing the patient. This motion is described in col. 2 lines 33-36 wherein the attendant:

". . . lifts the end 10B with one hand, as indicated at 28, to apply pressure to the back of the patient 20 while applying pressure to the shoulder of the patient with the other hand as indicated at 29".

Claim 1 of the instant application specifically recites that the upper end of the elongated strap is pulled toward the bed rail. Skaler applies a lifting motion with the strap and a

rolling motion with the hand. The invention of claim 1 provides a rolling motion with the strap. Skaler fails to teach the method and therefore a rejection under 35 U.S.C. 102(b) is improper.

Furthermore, Skaler teaches in a manner contrary to the present invention. Skaler teaches that the attendant is on the back side of the patient so that the patient is rolling away from the attendant. In claim 1 the attendant is on the front side of the patient so that the patient is rolling towards the attendant. This is required since the pulling motion is towards the bed rail and to achieve this from the position of Skaler would require a pushing motion. Applicant submits that the claimed invention is an improvement since the attendant is in better position to avoid the patient rolling to far, such as into the rail, with the improved method. With Skaler some portion of the patient would have to be grasped to avoid the patient rolling further then intended. This could be dangerous and is avoided with the claimed method.

Claims 2 and 4 depend from claim 1 and are patentable for, at least, the same reasons as claim 1.

Applicants respectfully request that the rejection of claims 1, 2 and 4 under 35 U.S.C. 102(b) as being anticipated by

Skaler be withdrawn since Skaler does not teach the claimed invention and teaches contrary to the claimed invention.

Claims 1, 2, 4-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lonardo '889.

Lonardo has been cited as teaching attaching the lower end (30) to a bed rail (54), grasping the upper end, and pulling the upper end toward the bed rail. This recitation has then been relied upon to argue that the claims are not patentable. This teaching is not recited by Lonardo and therefore the rejection is improperly based on a reading of Lonardo which is inconsistent with what is actually taught.

Lonardo never teaches attaching the lower end of the strap to the bed rail. This construction can only be derived in hindsight based on the teachings of the present application which is improper. Lonardo only teaches attaching the upper portion to the guard rail as illustrated in Fig. 7 and described in col. 3, lines 24-28. Even then it is to maintain the patient in position not for rotating the patient. For that reason alone the rejection under 35 U.S.C. 102(b) is improper. Furthermore, Lonardo recites a pad which the patient is wrapped in. This is contrary to the present invention and ignores one of the

advantages offered by the present invention as set forth in paragraph [0007] of the specification.

Claim 1 is improperly rejected based on teachings which are not included in the reference cited. Claims 2, 4-7, 9 and 10 ultimately depend from claim 1 and are patentable for, at least, the same reasons as claim 1.

Applicants respectfully request that the rejection of claims 1, 2, 4-7, 9 and 10 under 35 U.S.C. 102(b) as being anticipated by Lonardo '889 be withdrawn since Lonardo fails to recite the claimed invention.

Claims 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by GB Patent No. 2,213,734 to Hatcher et al.

Hatcher is cited as disclosing the invention based on Figs 1 & 2 and the disclosure of page 1, lines 12-26 and page 2, lines 1-17. Applicant respectfully submits that the rejection is in error.

Claim 11 specifically recites several limitations neither taught nor contemplated by Hatcher. First, Hatcher lifts the patient by exerting body weight about a fulcrum formed by an extended leg. The assister applies body weight to lift the patient. If the patient rises to quickly the assister may fall backwards with the invalid patient falling as well. In claim 11

of the present invention, the assistor crouches and lifts straight up using the strength of the legs. If the patient, or assistor, becomes unstable the patient merely drops safely back into the seat. Hatcher fails to recite rising from a crouching position and, on that basis alone, the rejection is improper.

Furthermore, Hatcher teaches lifting by means of a fulcrum not by utilizing the legs from a crouch position. Lifting from a crouch position allows the patient to be secure at all times and avoids the patient pitching the assistor rearward. Hatcher fails to teach the claimed invention and teaches a mechanism of lifting which is inferior to the claimed method.

Applicants respectfully request that the rejection of claims 11-15 under 35 U.S.C. 102(b) as being anticipated by GB Patent No. 2,213,734 to Hatcher et al. be withdrawn due to the failure of Hatcher to teach the claimed invention or to lead one to the claimed method.

Claim Rejections - 35 USC § 103

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lonardo '889 in view of Mann '879.

Claims 3 and 8 ultimately depend from claim 1. The inapplicability of Lonardo is discussed previously with respect to claim 1 and the arguments are equally applicable herein.

Mann '879 is cited as teaching a body positioner comprising a plurality of straps with snaps and hook and loop devices.

Mann teaches a device for maintaining a patient in a specific position. Mann is silent on how to move the patient to the position and therefore fails to mitigate the deficiencies of Lonardo. One of skill in the art would still rely on Lonardo for teachings on positioning the patient and would therefore not be taught, or led to, the invention of claim 1.

Applicants respectfully request that the rejection of claims 3 and 8 under 35 U.S.C. 103(a) as being unpatentable over Lonardo '889 in view of Mann '879 be withdrawn as being improper.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hatcher et al. '734 in view of Gershman.

Claim 16 ultimately depends from claim 11. The inapplicability of Hatcher with regards to the rejection of claim 11 is set forth previously and the arguments are applicable herein as well.

Gershman is cited as disclosing hook and loop fasteners to replace slide buckles and safety buckles. Gershman provides no guidance with regards to a mechanism to assist a patient to rise from a seating position. Gershman, therefore, fails to mitigate the deficiencies of Hatcher and the rejection is improper.

Applicants respectfully request the withdrawal of the rejection of claim 16 under 35 U.S.C. 103(a) as being improper.

CONCLUSIONS

Claims 1-16 are pending in the present application. All claims are believed to be in condition for allowance. Notice thereof is respectfully requested.

Respectfully submitted,



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